

OFF.
REC.

137390 733

34-54-40

DECLARATION OF RESTRICTIONS

04-329

This is a Declaration of Restrictions (the "Declaration") made this 1st day of ~~April~~ ^{June} 1988 by Burger King Corporation ("Owner") in favor of Metropolitan Dade County (the "County").

RECITALS

The Owner is the owner for the real property legally described on Exhibit "A" to this Declaration (the "Property"). The Owner has filed an Application for Zoning Public Hearing with the County bearing Public Hearing No. ⁸⁸⁻²⁰³ 87-203 under which the Owner is seeking district boundary change and other relief in order to develop the Property. In order to assure the County Commission that representations made to it by the Owner will be abided by, the Owner voluntarily makes the following declarations covering and running with the Property.

DECLARATIONS

1. Limitation On Ingress and Egress. No ingress or egress to or from the Property shall be permitted across S.W. 86th Street.

2. Inspections. The Owner agrees that any official inspector of the County Building and Zoning Department, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and investigating the use of the Property to determine whether or not the requirements of the building and zoning regulations and the conditions in this Declaration are being complied with.

3. Binding Effect. The restrictions set forth in this Declaration during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded in the public records of Dade County, Florida, and shall remain in full force and effect and be binding upon the Owner and the heirs, successors and assigns until such time as it is modified or released.

RECEIVED
204-329
AUG 18 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY

PREPARED BY
STANLEY D. PRICE
JOHN JOSEPH SCHWARTZ
BRIAN LACK & ENGLAND
ONE GLASSBORO FINANCIAL CENTER
100 S.E. 2 STREET
MIAMI, FLORIDA 33131

1950

4. Term. This Declaration is to run with the Property and shall be binding on all parties and persons claiming under them for a period of thirty (30) years from the date it is recorded, after which time it shall be extended automatically for successive periods of ten (10) years, unless an instrument signed by a majority of the then owner(s) of the Property has been recorded agreeing to change the Declaration in whole, or in part, provided the Declaration has first been released by the County.

5. Modification. This Declaration may be modified, amended or released as to the Property or any portion thereof, by the owner(s) of the fee simple title to the portion of the Property to be affected by such modification, amendment or release provided that the same is also approved by the County Commission or County Zoning Appeals Board (whichever by law has jurisdiction over such matters) after public hearing. Should this Declaration be so modified, amended or released the Director of the County Building and Zoning Department, or his successor shall forthwith execute a written instrument effectuating and acknowledging such modification amendment or release.

6. Enforcement. Enforcement shall be by action at law or in equity against any party or persons violating or attempting to violate any covenants contained in this Declaration, either to restrain violation or to recover damages. The prevailing party in such action or suit, shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the court may adjudge to be reasonable for the services of his attorney.

7. Severability. Invalidation of any one of the provisions of this Declaration by judgment of court in no wise shall affect any of the other provisions which shall remain in full force and effect.

RECEIVED
204-329
AUG 18 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

WITNESSES:

By:

Vice President (Seal)

Attest:

BY

EXHIBIT "A"

A portion of the Southwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 34, Township 54 South, Range 40 East, being more particularly described as follows:

Commence at the Southwest corner of the Southeast 1/4 of the Southeast 1/4 of said Section 34; thence run North 87 degrees 54 minutes 27 seconds East along the South line of the said Section 34, for a distance of 432.11 feet; thence run North 02 degrees 04 minutes 38 seconds West, for a distance of 55.00 feet to a point that is common to the North Right-of-Way line of S.W. 88 Street (Kendall Drive) and being the Point of Beginning of the parcel of land hereinafter described; thence run South 87 degrees 54 minutes 27 seconds West along the North Right-of-Way line of S.W. 88 Street (Kendall Drive), for a distance of 251.59 feet; thence run North 02 degrees 04 minutes 38 seconds West, for a distance of 314.00 feet; thence run North 87 degrees 54 minutes 27 seconds East, for a distance of 221.59 feet to a point; thence run North 02 degrees 04 minutes 38 seconds West, for a distance of 253.93 feet to a point on the South Right-of-Way line of S.W. 86 Street; thence run North 87 degrees 50 minutes 41 seconds East along the South Right-of-Way line of S.W. 86 Street, for a distance of 30.00 feet; thence run South 02 degrees 04 minutes 38 seconds East, for a distance of 567.97 feet to the Point of Beginning. Lying and being in Dade County, Florida and containing 86,618 square feet, more or less.

and

Being a portion of the Southwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 34, Township 54 South, Range 40 East, being more particularly described as follows:

Commence at the Southwest corner of the Southeast 1/4 of the Southeast 1/4 of said Section 34; thence run North 87 degrees 54 minutes 24 seconds East, along the South line of the said Southwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 34, for 180.52 feet; thence run North 02 degrees 04 minutes 38 seconds West, for 55.00 feet to a point on the North Right-of-Way line of Southwest 88 Street (North Kendal Drive) also being the Point of Beginning of the parcel of land hereinafter described; thence continue North 02 degrees 04 minutes 38 seconds West, for 314.00 feet; thence run South 87 degrees 54 minutes 27 seconds West, for 150.32 feet to a point on the East Right-of-Way line of Southwest 79 Avenue; thence run South 02 degrees 12 minutes 03 seconds East, along the said East Right-of-Way line, for 289.05 feet, to a Point of Curvature of a circular curve to the left; said last course running parallel with and 31.00 feet East of the East line of the Southeast 1/4 of the Southeast 1/4 of said Section 34; thence run Southeasterly, Easterly and Northeasterly along said curve having a radius of 25.00 feet and a central angle of 89 degrees 53 minutes 30 seconds, for an arc distance of 39.22 feet, to the Point of Tangency; thence run North 87 degrees 54 minutes 27 seconds East, along the said North Right-of-Way line of Southwest 88 Street (North Kendal Drive), for 124.69 feet, to the Point of Beginning. Lying and being in Dade County, Florida and containing 46,961 square feet, more or less.

RECEIVED
204-329
AUG 18 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY